REMARKS

I. Status of the Claims:

Claims 1-17 are pending in the application.

II. Response To Drawings

The Examiner requires the submission of formal drawings. Accordingly, Applicant submits herewith formal drawings of Figures 1 through 8 along with a Submission of Formal Drawings transmittal. Thus, reconsideration and withdrawal of this requirement is respectfully requested.

III. Objection to the Specification

The disclosure is objected to because the Brief summary of the invention is missing. To address the Examiner's concerns, Applicant has amended the specification to include a summary of the invention section and various embodiments as described in the claims (e.g., independent claims 1, 13 and 15). No new matter has been added by this Amendment.

Further, the disclosure is objected to because of missing patent or patent application numbers from the section Cross-Reference to Related Applications. Applicant has amended the specification to identify the missing application number in accordance with the Examiner's request.

In view of the foregoing, reconsideration and withdrawal of the objection of the specification are respectfully requested.

IV. Rejection Under 35 U.S.C. §103:

Claims 1-11, 13-15, 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Srivastava (U.S. Patent No. 5,999,737), hereafter "Srivastava", and Ono (U.S. Patent No. 5,084,813), hereafter "Oho", and in further view of Megiddo et al. (U.S. Patent No. 6,658,642), hereafter "Megiddo". Claim 12 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Srivastava, Ono, and Megiddo as applied to claim 1 above, and further in view of Atkin et al. (U.S. Patent No. 6,492,995), hereafter "Atkin". Claim 16 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Srivastava, Ono, and Megiddo as applied to claim 15 above, and further in view of Nagel et al. (U.S. Patent No. 6,725,454), hereafter "Nagel". Applicant respectfully traverses these rejections as follows.

1. Claim 1:

Claim 1 is directed to a computer implementation which involves at least to two features. The first feature involves receiving base code and developer-specified characteristics of the base code from a developer; translating the received base code into an intermediate code; evaluating the intermediate code to determine whether the received base code satisfied the developer-specified characteristics; and notifying the developer whether the received base code satisfies the developer-specified characteristics. In general, a developer is notified of whether the developer's code satisfies the developer's specified characteristics.

The second feature involves receiving a request for target code from a requester, the request including requester-specified characteristics that the target code should satisfy; selecting intermediate code that matches the requester-specified characteristics; transforming the selected intermediate code to target code in accordance with the requester-specified characteristics; and sending the target code to the requester.

Applicant respectfully submits that the cited references do not disclose or suggest at least the first claimed feature, as noted above. The primary reference Srivastava simply describes a computer system which converts a program written as a plurality of source code modules into corresponding machine executable code for execution on a target system. The secondary reference Ono describes an automatic program synthesizer that receives system specification, searches for software parts and synthesizes a program using particular software parts to customize a programming form according to the system specification. The "software parts" are not that which is received from a developer for evaluation according to the developer's specified characteristics. Srivastava and Ono, individually or in combination, do not deal with the receipt of both code and specified characteristics from a developer; the evaluation of such code (in an intermediate code form) to determine whether it satisfies the developer's specified characteristic, and the notification to the developer of whether the developer's code satisfies the developer's specified characteristics.

The remaining reference Megiddo relied upon by the Examiner does not remedy the deficiencies of the Srivastava and Ono teachings. Megiddo describes an approach whereby a request for submission of modules meeting particular requirements are posted, modules are submitted by developers, these modules are tested from compliance with the requirements of the requestor (not the developer who is submitting a module) and a module is selected.

Accordingly, the cited references individually or in combination simply do not disclose or suggest the receipt of both code and specified characteristics from a developer and the subsequent evaluation and notification with respect to the code and characteristics from the developer.

Furthermore, absent impermissible hindsight, one of ordinary skill in the art would not combine the cited references in the piecemeal manner suggested by the Examiner. The cited references have nothing whatsoever to do with the evaluation of a developer's code according to the developer's specified characteristics and subsequent notification to the developer of the evaluation.

In addition, the cited references do not disclose or suggest sending the target code to the requester. Ono as relied upon by the Examiner simply describes an automatic program synthesizer, and appears to be silent as to how a synthesized program is provided or made available to others, such as a requester. See col. 1, lines 9-13. The Examiner asserts that it is inherent that the target code is sent to the requester. Applicant disagrees. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. See MPEP §2112 (citations omitted)(EXAMINER MUST SHOW RATIONAL OR EVIDENCE TENDING TO SHOW INHERENCY). To establish a rejection based on inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. Id. A synthesized program of Ono may be made accessible in ways other than sending to a requester. The Office Action does not adequately set forth any fact or technical reasoning of how the claimed sending necessarily flow from the automatic program synthesizer.

In view of the foregoing, claim 1 and its dependent claims are patentably distinguishable over the cited references, individually or in combination. Reconsideration and withdrawal of the rejection of these claims are respectfully requested.

2. Claim 13:

Claim 13 is directed to a computer implementation which involves receiving base code and developer-specified characteristics of the base code from a developer; evaluating the base code to determine whether it satisfies the developer-specified characteristics; notifying the developer whether the received base code satisfies the developer-specified characteristics; and when target code that derives from the received base code is distributed to a requester, compensating the developer.

For similar reasons as discussed above for claim 1, the cited references, individually or in combination do not disclose or suggest the claimed receiving, evaluating and notifying of claim 13. Accordingly, claim 13 and its dependent claims are patentably distinguishable over the cited references, individually or in combination. Reconsideration and withdrawal of the rejection of these claims are respectfully requested.

3. Claim 15:

Claim 15 is directed to a computer implementation arrangement which involves providing a collection of intermediate code; receiving a request for target code from a requester, the request including requester-specified characteristics that the target code should satisfy; selecting intermediate code that matches the requester-specified characteristics; transforming the selected intermediate code to target code in accordance with the requester-specified characteristics; and sending the target code to the requester.

That is, intermediate code from a collection of intermediate code is selected based on a requester's specified characteristics of the request, this selected code is transformed to target code according to the specified characteristics and the target code is sent to the requester.

As acknowledged by the Examiner, Srivastava does not disclose or suggest the claimed receiving, selecting, transforming or sending. Ono does not remedy these deficiencies in the Srivastava teaching. As discussed above, Ono describes an automatic program synthesizer which customizes or changes a program pattern (e.g., col. 4, lines 21-30) to satisfy system specification. Ono synthesizes a program according to system specification using customizable programming forms. For instance, based on inputted system specification, software part(s), particularly, program patterns, are retrieved and customized according to system specification to synthesize a program. These retrieved program patterns are not intermediate code that is selected, transformed to target code and sent as target code to the requester, as claimed. As such, Ono does not disclose or suggest intermediate code from a collection of intermediate code is selected based on a requester's specified characteristics of the request, this selected code is transformed to target code according to the specified characteristics and the target code is sent to the requester.

In addition, as described above, Ono as relied upon by the Examiner simply describes an automatic program synthesizer, and appears to be silent as to how a synthesized program is provided or made available to others. See col. 1, lines 9-13. The Examiner asserts that it is inherent that the target code is sent to the requester. Applicant disagrees. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. See MPEP §2112 (citations omitted)(EXAMINER MUST SHOW RATIONAL OR EVIDENCE TENDING TO SHOW INHERENCY). To establish a rejection based on inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. Id. A synthesized

program of Ono may be made accessible in ways other than sending to a requester. Moreover, the Office Action does not adequately set forth any fact or technical reasoning of how the claimed sending necessarily flow from the automatic program synthesizer of Ono.

Accordingly, claim 15 and its dependent claims are patentably distinguishable over the cited references, individually or in combination. Reconsideration and withdrawal of the rejection of these claims are respectfully requested.

CONCLUSION

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4503, Order No. 3802-4058US1.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4503, Order No. 3802-4058US1.

Respectfully submitted,
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Dated: 6/16/05 By: _____

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